

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PRESTON EMERSON,

Petitioner,

v.

WILLIAM HUTCHINGS, et al.,

Respondents.

Case No. 2:21-cv-01215-GMN-NJK

ORDER

Petitioner Preston Emerson, a *pro se* Nevada prisoner, has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). He submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1) under 28 U.S.C. § 2254, but he did not pay the \$5 filing fee or submit an IFP application.

Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. The court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP application on the approved form and includes three specific documents: (a) the prisoner’s financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2.


Petitioner will have 45 days from the date of this order to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

IT IS THEREFORE ORDERED:

1. The initial screening of Petitioner’s Petition for Writ of Habeas Corpus (ECF No. 1-1) under the Rules Governing Section 2254 Cases and consideration of his Motion for Appointment of Counsel (ECF No. 1-2) are deferred to until such time as he has fully complied with this order.

2. The Clerk of Court is instructed to send Petitioner a blank form IFP application for incarcerated litigants along with *two* copies of this order.
3. **Within 45 days of the date of this order**, Petitioner must file an IFP application that includes a: (a) financial certificate signed by Petitioner and an authorized prison official, (b) financial declaration and acknowledgement signed by Petitioner, and (c) copy of Petitioner's inmate account statement for the six-month period prior to filing. Alternatively, Petitioner must pay the \$5 filing fee within 45 days. If Petitioner decides to pay the filing fee from his inmate account, he must arrange to have a copy of this order attached to the check for the filing fee.
4. Petitioner's failure to comply with this order within 45 days by (a) submitting a complete IFP application, or (b) paying the filing fee will result in the dismissal of this action without prejudice and without further advance notice.

DATED: July 30, 2021



GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE